

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

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|------------------------------------|---|--------------------|
| MARLOS L. CHENAULT, et al, |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | CIVIL ACTION FILE |
| |) | NO. 2012EV016009-J |
| GENERAL MOTORS CORPORATION, et al, |) | |
| Defendants. |) | |
| _____ |) | |

ORDER STAYING MOTION FOR DEFAULT JUDGMENT
AND DIRECTING PARTIES TO BANKRUPTCY COURT

This action currently appears before this Court on a motion by Plaintiffs to correct the misnomer of General Motors Corporation to General Motors, LLC and for entry of default judgment against that entity. The motion was filed on July 24, 2015, and on August 3, 2015 GM filed a notice of its intent to object to the motion and the entry of a default judgment. Then, on August 14, 2015, GM did, in fact, object to the motion.

The record in this case reflects that Plaintiffs named General Motors Corporation in their Complaint; however, the agent served with process was the registered agent for General Motors, LLC. The Affidavit of Service reflects that the entity served was “General Motors, LLC” and that service was perfected by leaving the pleadings with CSC, the registered agent for General Motors, LLC. Despite this, CSC apparently rejected the service because the Complaint named General Motors Corporation.¹ GMC/GM now argue that General Motors, LLC is not a proper party to this action because service was never properly perfected and because the underlying bankruptcy of General Motors Corporation bars any claims against General Motors, LLC in this – or any other – action.

¹ No copy of this rejection was filed in the record until General Motors filed its objections to the entry of a default judgment.

Determination of whether or not GMC is a mere misnomer for General Motors LLC, and that service upon the LLC was proper, rests, almost exclusively, on issues raised and events within the Bankruptcy action. Notably, GMC/GM's response brief is rife with references to the bankruptcy proceedings, involving the sale and transfer of General Motor Corporation's assets and liabilities, as well as an alleged bar to future claims against GMC. Furthermore, several Orders from the Bankruptcy Court were submitted as "evidence" that the claims herein are barred by the Bankruptcy proceeding. Pretermittting the question of service, whether or not these two companies are interrelated sufficiently so that one is a mere misnomer of the other, and whether or not the claims against General Motors Corporation are barred in this case, are issues for the Bankruptcy Court to determine, because resolution would involve an analysis of that Court's own orders and rulings, as well as a detailed review of the proceedings and the transfer of assets/liabilities from General Motors Corporation to General Motors, LLC.²

Therefore, pursuant to this Court's inherent and discretionary authority to control the disposition of cases on its docket, the Plaintiffs are **DIRECTED** to seek a ruling from the Bankruptcy Court regarding the nature of the relationship between General Motors Corporation and General Motors, LLC, whether or not the claims herein survive or are barred for any reason, and whether or not the bankruptcy stay applies in this case. Plaintiffs are further **DIRECTED** to notify this Court within **ten (10) days** of any final determination by the Bankruptcy Court as to these matters. This action and any proceedings against General Motors Corporation and/or General Motors, LLC are hereby STAYED pending a ruling by the Bankruptcy Court.

² According to General Motors, LLC, the bankruptcy proceeding with General Motors Corporation remains open and pending.

SO ORDERED, this 28th day of September, 2015.



Judge Diane E. Bessen
State Court of Fulton County

Copies by efile to counsel

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